

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MARTIN J. BIBBS,

Plaintiff,

v.

W. J. SULLIVAN, et al.,

Defendants.

Case No.: 1:21-cv-01145 CDB (PC)

**FINDINGS AND RECOMMENDATIONS TO
DISMISS CERTAIN CLAIMS AND
DEFENDANTS**

14-DAY OBJECTION PERIOD

Clerk of the Court to Assign District Judge

Plaintiff Martin J. Bibbs is proceeding *pro se* in this civil rights action brought pursuant to 42 U.S.C. § 1983.

On January 23, 2023, the Court issued its First Screening Order, finding Plaintiff's complaint states cognizable claims of deliberate indifference to serious medical needs against Defendants Eaton, Rubalcava, and Chavez, in their individual capacities. (Doc. 13 at 8-10.) The Court further found that Plaintiff failed to state any other cognizable claim against any other named Defendant. (*Id.* at 10-11.) The Court therefore directed Plaintiff to file a first amended complaint curing the deficiencies in his pleading or to notify the Court that he wishes to proceed only on the claims found cognizable. (*Id.* at 12-13.)

On February 23, 2022, Plaintiff filed a notice stating that "he is willing to proceed only on his claims for deliberate indifference to serious medical need against Defendants Eaton, Rubalcava, and Chavez, in their individual capacities." (Doc. 14.)

Accordingly, and for the reasons set forth in the Court's screening order (Doc. 13), the Court RECOMMENDS that:

1. Defendants Sullivan, Gonzalez, Tyree, Hernandez, Baniga, Boutte, Leiva, Razo and Jones be DISMISSED; and,
2. The claims in Plaintiff's complaint be DISMISSED, *except* for its deliberate indifference to serious medical needs claims against Defendants Eaton, Rubalcava, and Chavez, in their individual capacities, pursuant to 42 U.S.C. § 1983;
3. The Clerk of the Court is directed to randomly assign a district judge to this action; and
4. The Clerk of the Court is directed to update Plaintiff's address as reflected in his filing of February 23, 2023 (to the Richard J. Donovan Correctional Facility).

These Findings and Recommendations will be submitted to the United States District Judge assigned to this case, pursuant to 28 U.S.C. § 636(b)(1). Within 14 days of the date of service of these Findings and Recommendations, Plaintiff may file written objections with the Court. The document should be captioned, "Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections within the specified time may result in waiver of rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

IT IS SO ORDERED.

Dated: March 13, 2023


UNITED STATES MAGISTRATE JUDGE